IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 676 of 2007
Date of decision : 8.02.2007

Dr. Puran Chand

.....Petitioner.

Versus

Dr. Satish Kumar & Anr.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Chetan Mittal,Advocate
for the petitioner.

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VINOD K. SHARMA,J.(ORAL)

The petitioner has challenged an order passed by the learned Additional Civil Judge (Sr. Divn.), Hisar declining his prayer for leading additional evidence.

The petitioner by way of additional evidence sought to produce on record the details of the bank account showing the transactions between the petitioner and U-Grain Finance Company. The prayer was declined primarily on the ground that it was for the petitioner to prove that the evidence sought to be produced by way of additional evidence could not be

produced despite exercise of due diligence. It was also held that the provisions of law for leading additional evidence cannot be used to fill the lacuna in the case. The learned trial Court also came to the conclusion that the petitioner had already led evidence in support of his case set up in the plaint and the additional evidence sought to be produced now has no direct bearing on the case set up by the plaintiff. Accordingly, dismissed the application.

The learned counsel for the petitioner challenged the order primarily on the ground that the evidence came to his knowledge only when RW4 appeared in the witness box and, therefore, the transactions sought to be produced by way of additional evidence was not within his knowledge. This contention of the learned counsel for the petitioner is misconceived. The statement of RW4 does not disclose any transaction, which is sought to be produced by way of additional evidence. The learned counsel for the petitioner thereafter contended that the particulars of the cheque were given in the statement made under Section 161 of the Code of Criminal Procedure in a criminal case. This contention of the learned counsel for the petitioner belies the stand taken for leading additional evidence. It is not in dispute that the statement under Section 161 Cr.P.C. was recorded prior to the

evidence led by the petitioner in the Court. Even otherwise, the learned counsel for the petitioner has not been able to show how the finding of the learned trial Court relying relevancy of the document was bad in law. The contention of the learned counsel for the petitioner merely was that the evidence now sought to be produced would further support the case set up by the petitioner.

In view of the above, I do not find any illegality or error in exercise of jurisdiction by the learned Court below which may call for interference by this Court in exercise of its revisional jurisdiction.

Dismissed.

8.02.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**